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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/043,792	01/10/2002	Eric A. Beardsley	2700	9108

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EXAMINER	
FOWLKES, ANDRE R	

ART UNIT	PAPER NUMBER
2122	

DATE MAILED: 11/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/043,792	BEARDSLEY ET AL.	
	Examiner	Art Unit	
	Andre R. Fowlkes	2122	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *24 October 2002*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-47* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-47* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *10 January 2002* is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *8/15/02*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-47 pending.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-5, 7-20 and 22-47 are rejected under 35 U.S.C. 102(e) as being anticipated by Keller et al., (Keller), U.S. Patent No. 6,662,312.

As per claim 1, Keller discloses **computer test system, comprising:**

- an interface configured to receive a request for performance of test jobs on multiple machines (col. 1:52-59, "the present invention provide(s) a software-testing automation system for testing a plurality of deployed images that are spread across multiple software platforms wherein each deployed image includes a test component configured to accept a connection on a known testing port, and in which a test engine runs a test on an image by requesting a connection on the known testing port"),

- each of the test jobs including a defined platform for performance of the test jobs (col. 4:61-63, "A software-testing automation system of the present invention allows a user to build tests that exercise multiple software platforms all in one test", this statements discloses that the test component personalizes the "one test" to include a defined platform when used on each of the different multiple different platforms),

- an autolab component configured to select one of the multiple machines as a selected machine based upon a platform on the selected machine (col. 1:52-59, "the present invention provide(s) a software-testing automation system for (selecting and) testing a plurality of deployed images that are spread across multiple software platforms wherein each deployed image includes a test component configured to accept a connection on a known testing port, and in which a test engine runs a test on an image by requesting a connection on the known testing port"),

- to act on the request by assigning at least one of the test jobs to the selected machine (col. 1:52-59, "the present invention provide(s) a software-testing automation system for testing a plurality of deployed images that are spread across multiple software platforms wherein each deployed image includes a test component configured to accept a connection on a known testing port, and in which a test engine runs a test on an image by requesting a connection on the known testing port").

As per claim 2, the rejection of claim 1 is incorporated, and further Keller discloses that **the autolab component comprises a management component that is configured to separate one of the test jobs into subtasks, and to order the**

subtasks into a reordered job (col. 4:20-21, "the engine (i.e. autolab component) allows the tester to mix test steps (i.e. subtasks) that will be executed by different tools in one test case (i.e. reordered job)").

As per claim 3, the rejection of claim 2 is incorporated, and further Keller discloses that **the management component is configured to separate a plurality of the test jobs into subtasks, and to order the subtasks of the plurality of test jobs into a reordered job** (col. 4:20-21, "the engine (i.e. management component) allows the tester to mix test steps (i.e. test jobs) that will be executed by different tools in one test case (i.e. reordered job)").

As per claim 4, the rejection of claim 3 is incorporated, and further Keller discloses that **the management component is configured to add a subtask corresponding to a computing environment** (col. 7:10-15, "the user asks the test automater to update a test case ... the user can update theses test steps, delete them or add new ones").

As per claim 5, the rejection of claim 1 is incorporated, and further Keller discloses that **the test component is configured to create a personalized test package for the selected machine based upon the platform and applications available at the client machine** (col. 4:61-63, "A software-testing automation system of the present invention allows a user to build tests that exercise multiple software

platforms all in one test", this statements discloses that the test component personalizes the "one test" to be used on multiple different platforms).

As per claim 7, the rejection of claim 1 is incorporated, and further Keller discloses **a database component associated with the test component for storing the test jobs** (col. 7:21, "test case repository (i.e. database component for storing the test jobs)").

As per claim 8, the rejection of claim 7 is incorporated, and further Keller discloses that **the database is configured to store a particular test job in a pending status prior to the particular test job being assigned to one of the multiple machines** (col. 7:19-21, "Once the Test Automater has this information it stores the description (and status) in the header of the test case and saves the changes to the test case in the test case repository").

As per claim 9, the rejection of claim 7 is incorporated, and further Keller discloses that **the database is configured to store a particular test job in an assigned status while the particular test job is assigned to one of the multiple machines** (col. 7:19-21, "Once the Test Automater has this information it stores the description (and status) in the header of the test case and saves the changes to the test case in the test case repository").

As per claim 10, the rejection of claim 7 is incorporated, and further Keller discloses that **the database is configured to store a particular test job in a completed status after the particular test job has been run by one of the multiple machines** (col. 7:30-35, "the test automator displays the list of available test cases (and their results/status)").

As per claim 11, the rejection of claim 1 is incorporated, and further Keller discloses **a message queue for the selected machine and that is associated with the autolab component, the message queue for storing information about test jobs that have been assigned to the selected machine** (col. 7:30-35, "the test automator displays the list of available test cases (that have been assigned to selected machines)).

As per claim 12, the rejection of claim 1 is incorporated, and further Keller discloses **a high-level interface that permits direct access between the autolab component and at least one of the multiple machines** (col. 2:17-19, "preferably at least one of the known testing ports is a transmission control protocol/Internet protocol (TCP/IP) well known port").

As per claim 13, the rejection of claim 12 is incorporated, and further Keller discloses **a thin client that is configured for communicating between the high-level**

interface and the multiple machines, the thin client being configured to translate information from a client machine to information that may be utilized by the high-level interface (col. 2:17-19, "preferably at least one of the known testing ports is a transmission control protocol/Internet protocol (TCP/IP) well known port").

As per claim 14, the rejection of claim 1 is incorporated, and further Keller discloses that **the autolab component selects the selected machine based upon the availability thereof** (col. 1:52-59, "the present invention provide(s) a software-testing automation system for testing a plurality of deployed images that are spread across multiple (available) software platforms wherein each deployed image includes a test component configured to accept a connection on a known testing port, and in which a test engine runs a test on an image by requesting a connection on the known testing port").

As per claim 15, the rejection of claim 1 is incorporated, and further Keller discloses that **the autolab component selects the selected machine based upon the present imaging of the selected machine** (col. 1:52-59, "the present invention provide(s) a software-testing automation system for testing a plurality of deployed images that are spread across multiple software platforms wherein each deployed image includes a test component configured to accept a connection on a known testing port, and in which a test engine runs a test on an image by requesting a connection on

the known testing port", and 2:40-41, "the software platforms include multiple different virtual machines and operating systems").

As per claims , this is a system version of the claimed method discussed above, in claims , wherein all claimed limitations have also been addressed and/or cited as set forth above. For example, see Keller's software-testing automation system (col. 1:50-4:26).

As per claims 16-20 and 22-27, this is another system version of the claimed system discussed above, in claims 1-5 and 8-13, wherein all claimed limitations have also been addressed and/or cited as set forth above. For example, see Keller's software-testing automation system (col. 1:50-4:26).

As per claims 28-29, this is another system version of the claimed system discussed above, in claims 1 and 13, wherein all claimed limitations have also been addressed and/or cited as set forth above. For example, see Keller's software-testing automation system (col. 1:50-4:26).

As per claims 30-41, this is another system version of the claimed system discussed above, in claims 1 and 10-13, wherein all claimed limitations have also been addressed and/or cited as set forth above. For example, see Keller's software-testing automation system (col. 1:50-4:26).

As per claims 42-47, this is a method version of the claimed system discussed above, in claims 1-5, wherein all claimed limitations have also been addressed and/or cited as set forth above. For example, see Keller's software-testing automation system (col. 1:50-4:26).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 6 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Keller et al., (Keller), U.S. Patent No. 6,662,312 on view of Laviolette et al., (Laviolette), U.S. Patent No. 6,779,134.

As per claim 6, the rejection of claim 5 is incorporated, and further Keller doesn't explicitly disclose **a component for defining a time limit for execution of the test job, and wherein the autolab component is configured to reconfigure the test job to execute within the defined time limit**.

However, Laviolette, in an analogous environment, discloses **a component for defining a time limit for execution of the test job, and wherein the autolab**

component is configured to reconfigure the test job to execute within the defined time limit (col. 10:56-65, "the test job bundle includes data identifying ... a per job maximum time limit such as indicated at 610, a job start time 618 and a per test software maximum time limit", and col. 3:18-19, "a test job bundle is generated for use by the software test system").

Therefore, it would have been obvious to a person of ordinary skill in the art, at the time the invention was made, to incorporate the teachings of Laviolette into the system of Keller to have a **component for defining a time limit for execution of the test job, and wherein the autolab component is configured to reconfigure the test job to execute within the defined time limit**. The modification would have been obvious because one of ordinary skill in the art would have wanted to improve software testing efficiency (Laviolette, col. 2:8-9).

As per claim 21 the Keller/Laviolette combination also discloses such claimed limitations as addressed in claim 6 above.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andre R. Fowlkes whose telephone number is (571) 272-3697. The examiner can normally be reached on Monday - Friday, 8:00am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Q. Dam can be reached on (571)272-3695. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ARF

TUAN DAM
SUPERVISORY PATENT EXAMINER